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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,610	09/16/2003	Charles Wilson	23239-538 (ARC-38)	5499

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EXAMINER

HUMPHREY, LOUISE WANG ZHIYING

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1648

This Office Action is in response to the preliminary amendment filed on 21 December 2005. Claims 1-41 have been cancelled. Claims 42-70 are pending.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. §121:

- I. Claims 42-45, 58, 59, and 65, drawn to an aptamer, classified in class 536, subclass 23.1.
- II. Claims 46-57, 60-64, and 66-70, drawn to a method of identifying an aptamer, classified in class 435, subclass 4.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the process claims are drawn to a method of identifying, which is different from a method of making the claimed product. Furthermore, the product identified by the claimed process can be different from the claimed aptamer.

Because these inventions are independent or distinct for the reasons given above, have acquired a separate status in the art because of their recognized divergent subject matter, and require non-coextensive literature and sequence searches, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

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requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. §103(a) of the other invention.


Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louise Humphrey, Ph.D. whose telephone number is 571-272-5543. The examiner can normally be reached on Mon-Fri, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louise Humphrey, Ph.D.
Assistant Patent Examiner
17 April 2006



JEFFREY STUCKER
PRIMARY EXAMINER